

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: HETTISH

Application No.: 10/673,846

Filing Date: 9/29/2003

**For: METHOD AND SYSTEM FOR
PROVIDING INFORMATION
REGARDING AN IDENTITY'S
TRUE AVAILABILITY**

Confirmation No.: 3718

Group Art Unit: 2161

Examiner: Kavita Padmanabhan

APPEAL BRIEF

Docket No.: 2003P08062US

Mail Stop APPEAL - PATENTS (via EFS)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellant hereby appeals to the Board of Patent Appeals and Interferences from the decision of the Examiner in the Final Office Action mailed July 29, 2009 (the "Final Office Action"), rejecting claims 1 – 7 and 15 – 17.

REAL PARTY IN INTEREST

The present application is assigned to Siemens Information and Communication Networks, Inc., 900 Broken Sound Blvd., Boca Raton, Florida 33487.

RELATED APPEALS AND INTERFERENCES

No other appeals or interferences are known to Appellant, Appellant's legal representative, or assignee, which will directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1 –7 and 15 – 17 are pending and being appealed.

Claims 8 – 14 are cancelled.

STATUS OF AMENDMENTS

No amendments to the claims are pending or were filed after the Final Office Action.

SUMMARY OF CLAIMED SUBJECT MATTER INVOLVED IN THE APPEAL

Some embodiments of the present invention relate to a method, article of manufacture, and system for determining a true identity for an entity based on an identity context and device context in combination with a set of rules. FIG. 1 provides a block diagram of a system including a Context Agent 102, an Identity Context Oriented Application 104, a Presence and Availability Service 106, a Device Context Oriented Application 108, and a number of user devices 110, 112, 114, and 116. FIG. 2 is another embodiment of a system according to the disclosure, including a communication network 122. FIG. 3 further discloses and illustrates aspects of the claimed methods of the invention, while FIGS. 4, 5, and 6 provide illustrative depictions of user interfaces. FIG. 7 provides an example of a server that may implement one or more of the components associated with FIG. 1 and/or the claimed methods.

Appellant will now map each of the independent claims, and the dependent claims that are argued separately, to the disclosure of this application.

Claim 1

Claim 1 recites a method, comprising:

interfacing an identity oriented context application that represents a context of an identity based on an availability or state of the identity with a device oriented context application that determines an availability or state of a device associated with the identity, where the identity is a person or a group of persons (FIGS. 1, 2; pg. 8, ln. 12 – pg. 12, ln. 26);

determining, by said device oriented context application, a device oriented context for a specific device associated with the identity, wherein said device oriented context provides an availability status of said specific device (FIG. 3, 202; pg. 13, ln. 4 – 15);

determining, by said identity oriented context application, an identity oriented context for said identity, wherein said identity oriented context provides an availability status of said identity (FIG. 3, 204; pg. 13, ln. 16 – pg. 14, ln. 6);

determining an availability rule associated with said identity, the availability rule governing when or how the identity is available, when or how the identity can be contacted by other identities, how or when the identity can be contacted based on the identity oriented context of the identity, and how or when the identity can be contacted based on the device oriented context of the identity (FIG. 3, 206; pg. 14, ln. 7 - 22);

determining, for a specific time, a true availability of said identity based, at least in part, on said determined device oriented context for said specific device associated with said identity, said determined identity oriented context and said determined availability rule at said specific time (FIG. 3, 208; pg. 14, ln. 23 – 29); and

providing data indicative of said true availability of said identity (FIG. 3, 210; pg. 14, ln. 30 – pg. 15, ln. 14).

Claim 15

An article of manufacture comprising:

a computer readable medium having stored thereon instructions which, when executed by a processor (pg. 20, ln. 19 – 30), cause said processor to:

interface an identity oriented context application that determines an availability or state of the identity with a device oriented context application that represents the context of the identity based on an availability of a device associated with the identity, where the identity is a person or a group of persons (FIGS. 1, 2; pg. 8, ln. 12 – pg. 12, ln. 26);

determine, by said device oriented context application, a device oriented context for a specific device associated with the identity, wherein the device oriented context provides an availability status of the specific device (FIG. 3, 202; pg. 13, ln. 4 – 15);

determine, by said identity oriented context application, an identity oriented context for said identity, wherein the identity oriented context provides an availability status of the identity (FIG. 3, 204; pg. 13, ln. 16 – pg. 14, ln. 6);

determine an availability rule associated with an identity, the availability rule governing when or how the identity is available, when or how the identity can be contacted by other identities, how or when the identity can be contacted based on the identity oriented context of the identity, and how or when the identity can be contacted based on the device oriented context of the identity (FIG. 3, 206; pg. 14, ln. 7 – 22);

determine, for a specific time, a true availability of said identity based, at least in part, on said determined device oriented context for said specific device, said

determined identity oriented context and said determined availability rule at said specific time (FIG. 3, 208; pg. 14, ln. 23 – 29); and

provide data indicative of said true availability of said identity (FIG. 3, 210; pg. 14, ln. 30 – pg. 15, ln. 14).

Claim 16

A system, comprising:

a processor (FIG. 7, 310; pg. 17, ln. 14 – pg. 20, ln.5);

a communication port (FIG. 7, 312; pg. 17, ln. 14 – pg. 20, ln.5) coupled to said processor and adapted to communicate with at least one device; and

a storage device (FIG. 7, 320; pg. 17, ln. 14 – pg. 20, ln.5) coupled to said processor and storing instructions adapted to be executed by said processor to:

interface an identity oriented context application that determines an availability or state of the identity with a device oriented context application that represents the context of the identity based on an availability of a device associated with the identity, where the identity is a person or a group of persons (FIGS. 1, 2; pg. 8, ln. 12 – pg. 12, ln. 26);

determine, by said device oriented context application, a device oriented context for a specific device associated with the identity, wherein the device oriented context provides an availability status of the specific device (FIG. 3, 202; pg. 13, ln. 4 – 15);

determine, by said identity oriented context application, an identity oriented context for said identity, wherein the identity oriented context provides an availability status of the identity (FIG. 3, 204; pg. 13, ln. 16 – pg. 14, ln. 6);

determine an availability rule associated with said identity, the availability rule governing when or how the identity is available, when or how the identity can be contacted by other identities, how or when the identity can be contacted based on the identity oriented context of the identity, and how or when the identity can be contacted based on the device oriented context of the identity (FIG. 3, 206; pg. 14, ln. 7 – 22);

determine, for a specific time, an availability of said identity based, at least in part, on said determined device oriented context for said specific device, said determined identity oriented context and said determined availability rule at said specific time (FIG. 3, 208; pg. 14, ln. 23 – 29); and

provide data indicative of said availability of said identity (FIG. 3, 210; pg. 14, ln. 30 – pg. 15, ln. 14).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1 – 7 and 15 – 17 are unpatentable under 35 USC 102(b) as being anticipated by Diacakis et al. U.S. Publication 2002/0116336, hereinafter "Diacakis". by Diacakis et al. U.S. Publication 2002/0116336, hereinafter "Diacakis".

ARGUMENT

Claims 1 – 7 and 15 – 17 are Patentable

Claim 1 relates to a method including interfacing an identity oriented context application that represents a context of an identity based on an availability or state of the identity with a device oriented context application that determines an availability or state of a device associated with the identity, where the identity is a person or a group of persons, determining, by said device oriented context application, a device oriented context for a specific device associated with the identity, wherein said device oriented context provides an availability status of said specific device, determining, by said identity oriented context application, an identity oriented context for said identity, wherein said identity oriented context provides an availability status of said identity, and

determining an availability rule associated with said identity, the availability rule governing when or how the identity is available, when or how the identity can be contacted by other identities, how or when the identity can be contacted based on the identity oriented context of the identity, and how or when the identity can be contacted based on the device oriented context of the identity. The method of claim 1 further includes determining, for a specific time, a true availability of said identity based, at least in part, on said determined device oriented context for said specific device associated with said identity, said determined identity oriented context and said determined availability rule at said specific time, and providing data indicative of said true availability of said identity.

Clearly, Appellant claims interfacing an identity oriented context application with a device oriented context application. The claimed identity oriented context application represents a context of an identity based on an availability or state of the identity, whereas the claimed device oriented context application determines an availability or state of a device associated with the identity. That is, the claimed "identity oriented context application" is related or referenced (i.e., oriented) to an availability or state of an identity, whereas the claimed "device oriented context application" is related or referenced (i.e., oriented) to an availability or state of a device.

Appellant notes that the availability of a device associated with the identity is provided by the device oriented context application, as stated in the Specification at page 6, lines 3 – 9 disclosing, "[A]n identity may have one or more associated devices. ...Each device may have an associated device context. ... Context for a device may describe the work or non-work state, and/or the availability or non-availability state, that the device is in."

Appellant notes claims 15 (reciting an article of manufacture) and claim 16 (reciting an apparatus) are worded similar to claim 1 regarding the claimed device oriented context application.

Appellant respectfully submits that the cited and relied upon Diacakis does not disclose or suggest, at least, the claimed device oriented context application and

mapping a new device oriented context to the identity oriented context. Appellant further submits the Office has clearly erred in asserting the cited and relied upon Diacakis does disclose these aspects.

Appellant notes the Examiner maintains the rejection of the claims on the basis that Diacakis' disclosed presence and availability (P&A) management server 12 that is explicitly related to determining the presence and availability of an individual is equivalent to the claimed "device oriented context application", as stated in the Final Office Action dated July 29, 2009 (hereinafter, FOA) at pages 2 – 3. However, the Office's characterization of Diacakis is mistaken and factually unsupported by the Diacakis disclosure.

Appellant submits that Diacakis factually discloses a P&A management server 12 that includes "a presence detection engine 18 and an availability management engine 20". (Diacakis, para. [0024], ln. 7 – 10) The presence detection engine 18 and the availability management engine 20 together form the P&A management server 12 and cooperate to provide the functionality of determining the presence and availability of an individual to the P&A management server 12. It is further noted that Diacakis states throughout the entirety of its disclosure that the purpose and function of the disclosed methods and systems therein is to determine the presence and availability of an individual (i.e., identity or person).

Appellant requests the Board to reference the Amendment and Response filed with the Office on September 29, 2009, at page 9, paragraphs 4 and 5 where Appellant discusses Diacakis, paragraphs [0026] and [0027] that explicitly defines the terms "presence" and "availability" in the context of "the ability of *an individual* to access a particular communications network" and "the willingness of *an individual* who is present on one or more communications networks to be reached by one or more persons", respectively. That is, both the presence detection engine 18 and the availability management engine 20 are explicitly defined by Diacakis in relation to, with reference to, and "oriented" to *an individual*. Neither the Diacakis defined presence detection engine 18 nor the availability management engine 20 are disclosed in relation to, with

reference to, and “oriented” to a device. Therefore, it is clear that Diacakis fails to disclose or suggest the claimed aspect of “device oriented context application that determines an availability or state of a device associated with the identity”.

Appellant further submits that any attempt to expand the meaning of the terms “presence” and “availability” beyond the specific definitions provided by Diacakis would be impermissible, erroneous, and counter to the plain meaning and scope of the Diacakis reference.

Diacakis' presence detection engine 18, as explicitly disclosed and defined by Diacakis, provides a presence of an individual. The fact that the individual may be present on a network or a device does not alter the fact that Diacakis provides a presence of the individual. It is the presence of the individual that is determined by Diacakis, not the presence or availability of the network or device. (See Diacakis, paragraphs [0038] and [0040]) Based on the *explicit* disclosure of Diacakis, it is clear that the Diacakis P&A server 12 determines the presence of an individual based on the presence detection engine's determination of the individual's presence on a network and the availability management engine's determination of the individual's availability based on the individual's presence information from presence engine 18 and additional information about the individual. Without question, Diacakis' presence detection engine 18 provides presence information about the individual. The presence information about the individual from the presence detection engine 18 is used by the availability management engine 20, in combination with the individual's rules and preferences, to determine the individual's availability. The individual's rules and preferences may determine or control how the individual's presence information from the presence detection engine is classified or characterized.

Therefore, it is seen that both the presence detection engine 18 and the availability management engine 20 using individual presence information from the presence engine 18 relate to a presence (i.e., the ability of an individual to access a particular communications network) and availability of an individual.

Contrary to the assertions in the FOA, there is no disclosure or suggestion that the asserted Diacakis presence detection engine 18 is the same as, analogous to, or equivalent to the claimed “device oriented context application that provides an availability of a device”.

Appellant maintains Diacakis provides numerous examples of the presence detection engine 18 providing the individual's presence on different networks. Appellant cites and incorporates the arguments of record related to Diacakis' extensive disclosed examples of the identity (i.e., individual) oriented application therein – the presence detection engine 18, including citations to Diacakis at paragraphs, [0034], [0038], and [0040] – [0044].

Appellant submits that both the presence detection engine 18 and the availability management engine 20 disclosed by Diacakis relate to the presence and availability of an individual. No availability of a device is disclosed as being determined by Diacakis. That is, Diacakis fails to disclose or even suggest the claimed device oriented context application.

Appellant respectfully submits that claims 1, 15, and 16 are not anticipated by Diacakis. Furthermore, Appellant submits that claims 2 – 7 and 17 are also patentable over Diacakis for depending from an allowable base claim.

Therefore, Appellant respectfully requests the reconsideration and withdrawal of the rejection of claims 1 – 7 and 15 – 17 under 35 USC 102.

CONCLUSION

For at least the reasons set forth above, Appellant respectfully submits that the rejection of the claims is improper. Accordingly, Appellant respectfully requests that the rejection be reversed.

No extension of time is believed due. The requisite fee of \$540.00 is paid herewith through EFS. If any additional fees are due in conjunction with this matter, the Commissioner is hereby authorized to charge them to Deposit Account 50-1852.

An Appendix of claims involved in this appeal is attached hereto.

If any issues remain, or if the Examiner or Board believes that a telephone interview would expedite the prosecution of this application in any way, kindly contact the undersigned via telephone at (203) 972-5985.

Respectfully submitted,

March 1, 2010
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APPENDIX A - CLAIMS

1. (Previously Presented) A method, comprising:

interfacing an identity oriented context application that represents a context of an identity based on an availability or state of the identity with a device oriented context application that determines an availability or state of a device associated with the identity, where the identity is a person or a group of persons;

determining, by said device oriented context application, a device oriented context for a specific device associated with the identity, wherein said device oriented context provides an availability status of said specific device;

determining, by said identity oriented context application, an identity oriented context for said identity, wherein said identity oriented context provides an availability status of said identity;

determining an availability rule associated with said identity, the availability rule governing when or how the identity is available, when or how the identity can be contacted by other identities, how or when the identity can be contacted based on the identity oriented context of the identity, and how or when the identity can be contacted based on the device oriented context of the identity;

determining, for a specific time, a true availability of said identity based, at least in part, on said determined device oriented context for said specific device associated with said identity, said determined identity oriented context and said determined availability rule at said specific time; and

providing data indicative of said true availability of said identity.

2. (Previously Presented) The method of claim 1, further comprising

receiving a request for information regarding true availability of said identity.

3. (Previously Presented) The method of claim 1, wherein said determining said true availability of said identity includes determining availability of said identity via at least two different media channels.

4. (Previously Presented) The method of claim 1, further comprising establishing said availability rule.

5. (Previously Presented) The method of claim 1, wherein said providing data indicative of said true availability of said identity includes displaying an interface indicative of said availability.

6. (Previously Presented) The method of claim 5, wherein said interface identifies said identity.

7. (Previously Presented) The method of claim 1, further comprising determining said identity.

8 - 14. (Canceled)

15. (Previously Presented) An article of manufacture comprising:

a computer readable medium having stored thereon instructions which, when executed by a processor, cause said processor to:

interface an identity oriented context application that determines an availability or state of the identity with a device oriented context application that represents the context of the identity based on an availability of a device associated with the identity, where the identity is a person or a group of persons;

determine, by said device oriented context application, a device oriented context for a specific device associated with the identity, wherein the device oriented context provides an availability status of the specific device;

determine, by said identity oriented context application, an identity oriented context for said identity, wherein the identity oriented context provides an availability status of the identity;

determine an availability rule associated with an identity, the availability rule governing when or how the identity is available, when or how the identity can be contacted by other identities, how or when the identity can be contacted based on the identity oriented context of the identity, and how or when the identity can be contacted based on the device oriented context of the identity;

determine, for a specific time, a true availability of said identity based, at least in part, on said determined device oriented context for said specific device, said determined identity oriented context and said determined availability rule at said specific time; and

provide data indicative of said true availability of said identity.

16. (Previously Presented)

A system, comprising:

a processor;

a communication port coupled to said processor and adapted to communicate with at least one device; and

a storage device coupled to said processor and storing instructions adapted to be executed by said processor to:

interface an identity oriented context application that determines an availability or state of the identity with a device oriented context application that represents the context of the identity based on an availability of a device associated with the identity, where the identity is a person or a group of persons;

determine, by said device oriented context application, a device oriented context for a specific device associated with the identity, wherein the device oriented context provides an availability status of the specific device;

determine, by said identity oriented context application, an identity oriented context for said identity, wherein the identity oriented context provides an availability status of the identity;

determine an availability rule associated with said identity, the availability rule governing when or how the identity is available, when or how the identity can be contacted by other identities, how or when the identity can be contacted based on the identity oriented context of the identity, and how or when the identity can be contacted based on the device oriented context of the identity;

determine, for a specific time, an availability of said identity based, at least in part, on said determined device oriented context for said specific device, said determined identity oriented context and said determined availability rule at said specific time; and

provide data indicative of said availability of said identity.

17. (Previously Presented) The method of claim 1, wherein said identity is associated with a plurality of devices.

APPENDIX B - EVIDENCE

No evidence is being submitted with this Appeal Brief (*i.e.*, this appendix is empty).

APPENDIX C - RELATED PROCEEDINGS

No prior or pending appeals, interferences, or judicial proceedings are known to Appellant, Appellant's legal representative, or assignee, which may be related to, directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal. Therefore, there are no copies of decisions rendered by a court or the Board to attach (*i.e.*, this appendix is empty).